

## **REMARKS**

Applicants thank Examiner Shaffer for the Examiner Interview conducted on November 29, 2007 during which Applicants' representative and the Examiner discussed the pending claims of record in view of the prior art. During the interview, Applicants' representative and the Examiner discussed novel features provided in the instant application over the art of record and, more specifically, U.S. Pat. Nos. 5,814,046 (Hopf), 6,022,351 (Bremer), and 6,585,739 (Kuras). Specifically, some points of novelty discussed were the structure of the cap and the base. Applicants' representative and the Examiner discussed possible claim amendments to clarify these features. Although complete agreement was not specifically reached, the Examiner was favorably inclined to claim amendments that specifically identified structural limitations of the cap, the base and the engagement structure of the base with respect to the post. As a result of the Examiner Interview, claims 1 and 28 have been amended. New claims 34-41 have been added to further characterize such features.

Claims 1-6, 12-15, 18-20, and 28-43 are now pending in the application. Claims 7-11, 16, 17, and 21-27 have been cancelled. Claims 1, 15, 28, and 31 have been amended. Claims 34-43 are new. The basis for the foregoing amendments may be found throughout the written description, drawings, and claims as originally filed. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

### DOUBLE PATENTING

The Examiner states that until such time as a Terminal Disclaimer is filed, the Double Patenting Rejection stands such that Claims 1-6, 8, 10-15, and 18-20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1-24 of U.S. Patent No. 6,685,707. Applicants acknowledge this double patenting rejection and will submit a terminal disclaimer upon allowance of the subject application.

### REJECTION UNDER 35 U.S.C. § 112

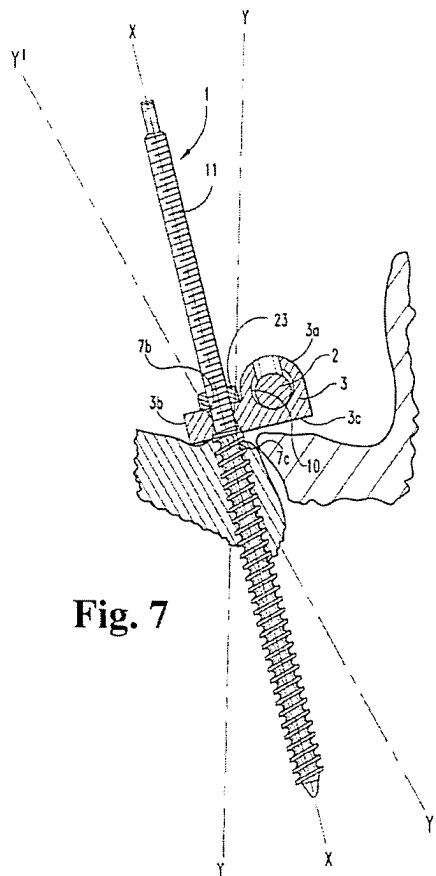
Claims 8 and 31 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement, specifically re: “wherein the post includes external ribs” in Claim 8 and “wherein the threads are defined along an outermost dimension of the post” in Claim 31. This rejection is respectfully traversed. Applicants note that claim 8 has been cancelled and claim 31 has been amended to recite “outboard” dimension to correct an inconsistency. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

Claim 15 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicants regard as the invention, specifically re: the limitation “claim **12** ... **the key**” in Lines 1 and 2. This rejection is respectfully traversed. Claim 15 has been amended to be dependent upon claim 13. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

## **REJECTION UNDER 35 U.S.C. § 102**

Claims 1-6, 8, 10, 12-15, and 28-33 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. No. 5,814,046 (Hopf). This rejection is respectfully traversed.

Applicants note that claim 1 has been amended to include a cap “defining a substantially planar engaging end having a gripping feature” ... a base opposing the engaging end of the cap and “defining a collar at an aperture”... and a post having ... “an engaging portion defined on a terminal end that engages the collar”. Support for this amendment may be found in at least FIGS. 3-5, 11 and paragraphs [0049] and [0054] of the disclosure as originally filed. FIG. 7 of Hopf is reproduced below for reference.



**Fig. 7**

The Examiner has identified the “cap” as the nut 23. The nut does not define an engaging end having teeth. Applicants further submit that by incorporating teeth onto the engaging face of the nut 23, the nut 23 of Hopf would not perform as intended nor transmit the desired retention force onto the connection element 3.

Moreover, the nut 23 of Hopf is configured to be rotatably driven by an ancillary device 14. Therefore, once the nut 23 initially engages the connection element 3, it must still be rotatably driven. The teeth (gripping feature) on the cap of the instant disclosure are configured to become progressively advanced into the bone axially as the *post* rotates (see also paragraph [0051]).

Applicants further note that Hopf does not provide a post having an engaging portion defined on a terminal end that engages a collar on a base. A terminal end of the screw 11 in Hopf does not engage a base at all. Instead the terminal end of the screw 11, according to Hopf, extends through host bone a substantial distance away from the connection element 3 (See FIG. 7 above). For the reasons discussed above, reconsideration and withdrawal of this rejection as it relates to claims 1-6 and 12-15 are respectfully requested.

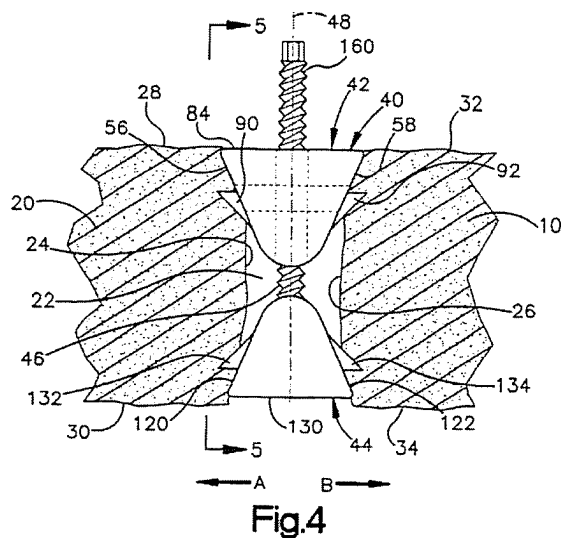
Applicants note that claim 28 has been amended to include a base “defining an aperture” and a post coupled to the base and “having an enlarged head defining a channel that receives a periphery of the aperture of the base”. Support for this amendment may be found in at least FIGS. 15-17 and paragraph [0061] of the disclosure as originally filed. Applicants submit that Hopf fails to show such a feature. The connection element 3 of Hopf defines an hour-glass configuration as shown in FIG.

7 above. Therefore, reconsideration and withdrawal of this rejection as it relates to claims 28-33 are respectfully requested.

**REJECTION UNDER 35 U.S.C. § 103**

Claims 1-6, 8, 10-15, 18-20, and 28-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,585,739 (Kuras) in view of U.S. Pat. No. 6,022,351 (Bremer). This rejection is respectfully traversed.

Applicants again note that claims 1 and 28 have been amended as discussed above. Applicants note that Kuras does not include a cap defining a substantially planar engaging end having teeth. Instead, first and second end members 40 and 42 define arcuate end surfaces 60 and 124. The first and second end members 40 and 42 are shaped specifically for acting as wedges between a cranial flap 20 and a skull 10. See FIG. 4 reproduced below for reference. Applicants submit that if either of the end members 40 and 42 defined “a substantially planar engaging end” as required by amended claim 1, they could not act as a wedge and, therefore, would not work for their intended purpose. Applicants further note that Kuras does not provide a post having an enlarged head defining a “channel” as recited in amended claim 28.



Like Kuras, Bremer does not show a cap defining a substantially planar engaging end having a gripping feature. Moreover, Bremer has “a construction that is similar to that of a conventional plastic cable tie, with each ratchet tooth having a ramp surface 15” (Col. 4, Lines 12-14). Bremer does not have a base defining a collar at an aperture and a post having an engaging portion defined on a terminal end that engages the collar as required by amended claim 1. Bremer also does not have a post having an enlarged head defining a channel that receives a periphery of the aperture of the base as required by amended claim 28. In sum, Applicants submit that the combination of Kuras and Bremer would not render the pending claims obvious to one skilled in the art. Therefore, reconsideration and withdrawal of this rejection as it relates to claims 1-6 and 12-15 and 28-31 are respectfully requested.

Claims 32 and 33 stand rejected as being anticipated by Kuras in view of Bremer and optionally in further view of Hopf. This rejection is respectfully traversed.

Applicants note that claims 32 and 33 ultimately depend from amended claim 28 as discussed above. Applicants submit that the combination of Kuras, Bremer and/or

Hopf would not render obvious to one skilled in the art, claim 28 as amended herein. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

Claims 18-20 also stand rejected as being unpatentable over Hopf. This rejection is respectfully traversed.

Applicants note that claims 18-20 ultimately depend from amended claim 1 as discussed above. Applicants submit that, as discussed in detail above, Hopf would not render obvious to one skilled in the art, claim 1 as amended herein. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

#### **NEW CLAIMS 34-43**

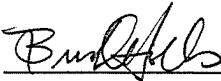
Applicants have submitted new claims 34-43 for substantive examination. Support for these new claims may be found in the application as originally filed. Applicants submit that these claims are not taught or rendered obvious by the cited art of record.

## CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: 19 DEC 07

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